

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CANDELARIA BARAJAS,
Plaintiff,

v.

ABBOTT LABORATORIES, INC.,
Defendant.

Case No. [5:18-cv-00839-EJD](#)

**ORDER DENYING MOTION FOR
RELIEF FROM NON-DISPOSITIVE
PRETRIAL ORDER OF MAGISTRATE
JUDGE**

Re: Dkt. No. 46

This is a suit for gender discrimination, breach of implied contract and violation of the California Fair Pay Act. Defendant Abbott Laboratories, Inc. (“Abbott”) moves for relief from Magistrate Judge DeMarchi’s November 29, 2018 “Order Re November 6, 2018 Joint Discovery Dispute Letter” entered as Docket No. 42 (“Order”).

Judge DeMarchi denied Abbott’s motion to compel further deposition of Plaintiff and denied Abbott’s motion for sanctions without prejudice. In doing so, Judge DeMarchi rejected Abbott’s argument that Plaintiff had provided evasive, rambling or non-responsive testimony. Judge DeMarchi found that Plaintiff’s counsel made improper speaking objections and took improper coaching breaks. Nevertheless, Judge DeMarchi concluded that counsel’s misconduct did not cause prejudice to Abbott that could be remedied by further deposition. Judge DeMarchi also rejected Abbott’s argument that Plaintiff’s failure to produce job applications warranted more deposition time. Judge DeMarchi reasoned that Abbott chose to proceed with the deposition without first moving to compel production of the applications and Abbott had failed to show that its examination of Plaintiff had been frustrated.


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Judge DeMarchi's thorough and well-reasoned Order is neither clearly erroneous nor contrary to law. Accordingly, Abbott's motion for relief from the Order is DENIED.

IT IS SO ORDERED.

Dated: December 18, 2018



EDWARD J. DAVILA
United States District Judge